IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 1386 of 2003
Date of Decision: 27.10.2006

Sukhjinder Singh and others ...Appellants

Versus

Gram Panchayat ....Respondent

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Naresh Prabhakar, Advocate, for the appellants.

JUDGMENT

This order shall dispose of RSA Nos. 1386 of 2003 and 2427 of 2003, as both the appeals arise out the same suit filed by the plaintiff-appellants.

The plaintiffs are in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby suit for injunction in respect of the land in dispute was dismissed on the ground that such question cannot be decided by the Civil Court. The dispute between the parties is in respect of land which is claimed to be a passage, owned and possessed by the defendant-Panchayat, whereas the plaintiffs claim it to be part of their property.

Learned counsel for the appellants has vehemently argued that the plaintiffs have filed the suit for injunction on the basis of their title and possession over the land in dispute and, therefore, the Civil Court will have the jurisdiction to entertain the suit.

There is no dispute about the title of the plaintiffs but the fact

remains whether the land in dispute is part of the public passage vesting in the Panchayat or is part of land owned by the plaintiffs. The said question can be decided only by the Collector on the basis of demarcation of the suit property. It has been rightly found that the question of title with regard to the suit land could only be decided by the Collector under the Punjab Village Common Lands (Regulation) Act, 1961.

Therefore, I do not find any material illegality or irregularity in the findings recorded by the Courts below, which may give rise to any substantial question of law for consideration.

Hence, both the appeals are dismissed.

27-10-2006 (HEMANT GUPTA)
ds JUDGE